IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 1705 of 2007(C)

AGAINST THE ORDER IN & CMP 4003/2006 IN CMP.4002/2006 of J.M.F.C.,KUNNAMANGALAM

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PETITIONER:

SHANIDA, AGED 22 YEARS, D/O. HUSSAIN HAJEE, THODUKAYIL HOUSE, VAYALANKARA, MADAVOOR POST, VIA. NARIKUNI, KOZHIKODE. (KUNNAMANGALAM POLICE LIMITS)

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:

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1. MOHAMMED ABDUL SALIM, AGED 29 YEARS, S/O. M.ABDUL KHADER HAJEE, MANNATH HOUSE, KIZHAKOTH POST, KODUVALLY, KIZHAKKOTH AMSOM, PANTHUR DESOM, KOZHIKODE TALUK.

2. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. S U NAZER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC NO.1705 OF 2007

PETITIONER'S EXHIBITS:

EXT.P1:- TRUE COPY OF PETITION IN CMP 4002/2006 FOR PROSECUTION OF 1ST RESPONDENT & OTHERS FOR DOWRY HARASSMENT ETC.

EXT.P2:- TRUE COPY OF PETITION IN CMP 4003/2006 FOR ACTION AGAINST 1ST RESPONDENT UNDER ACT 43 OF 2005.

[TRUE COPY]

R.BASANT, J

W.P.C .No.1705 of 2007

Dated this the 19th day of February 2007

O R D E R

The petitioner has come to this court with the grievance that Protection Officers, as contemplated under the Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005) having not been appointed, the same is causing great prejudice and loss to the petitioner. The learned Magistrate is not taking the necessary steps to get the notice served on the first respondent for the reason that Protection Officer has not been appointed. It was with that grievance that the petitioner had come to this court. A report has been called for from the learned Magistrate and the report has been received.

2. In the meantime, it is submitted that Protection Officers have been appointed and the said grievance does not survive. Report of the learned Magistrate shows that the learned Magistrate entertains serious doubts as to whether the petition is maintainable and he wants the matter to be heard. The learned counsel for the petitioner had advanced arguments in part, it is mentioned.

3. I am of the opinion that the petitioner must appear before the learned Magistrate and advance arguments on the question of maintainability raised by the learned Magistrate. I do not think it necessary to express any opinion on the question on which the learned Magistrate wants the matter to be heard. The petitioner must appear before the learned Magistrate and advance his arguments whereupon the learned Magistrate shall take appropriate decision in the matter. It is reported by the learned Magistrate that the matter stands posted to 02/03/2007. The petitioner must appear before the learned Magistrate and make his submissions on that date.

4. With the above observations, this writ petition is dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006

I am satisfied that notice need not be issued to the first respondent. Now, considering the question raised, the learned Government Pleader takes notice to the second respondent. He shall take instructions. It shall be reported specifically to this court whether Protection Officer has been appointed to discharge his functions within the jurisdiction of the Kunnamangalam Police Station. Take instructions.

Call on 22/01/2007.